

May 16, 2022

VIA ECF
The Honorable Michael J. Davis
Senior Judge, United States District Court
United States District Court, District of Minnesota
300 South Fourth Street
Minneapolis, MN 55415

Re: *United States ex rel. Laurie Simpson v. Bayer*, 08-cv-5758-MJD-ECW
Status Update

Dear Judge Davis:

We write with an update on the resolution in principle reached in the above-referenced False Claims Act *qui tam* action transferred to the Baycol multi-district litigation proceeding in 2008 (the “Minnesota action”). As discussed in our prior letters to the Court, Plaintiff-Relator Laurie Simpson has another *qui tam* action pending in the District of New Jersey captioned *United States ex rel. Laurie Simpson v. Bayer Pharmaceutical Corp., Bayer Corporation, and Bayer A.G.*, Case No. 05-cv-3895 (D.N.J.) (the “New Jersey action”). The resolution in principle encompasses both actions.

The current status is as follows:

- The federal False Claims Act settlement agreement encompassing both the Minnesota and New Jersey actions is close to finalization. Relator and Bayer are working through last details on release language and the retaliation portion of the resolution.
- The team from the National Association of Medicaid Fraud Control Units (“NAMFCU”) has made significant progress on the state portion of the settlement in the New Jersey action involving state Medicaid amounts. In the New Jersey action, Ms. Simpson brought claims on behalf of 21 states, as well as the United States. Those claims are being resolved alongside those of the federal government. In April, the NAMFCU reached out to all 21 states via memo to determine whether they will participate in the resolution, with responses requested from them by May 16. The NAMFCU has received such responses from half the states, with the remaining responses expected in the next week.
- DOJ and Relator’s counsel have had additional discussions with representatives of the Plaintiff’s Steering Committee in this MDL regarding the holdback provision in the MDL (*e.g.*, Pretrial Orders 25, 53, 166). Relator and the PSC

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have resolved that issue, and will file shortly a separate letter with the Court regarding it.

- The proposed resolution remains subject to Department of Justice and Bayer Board approvals.

With just a few unresolved issues remaining in this complex negotiation involving two qui tam cases and 21 states, the parties have made strong progress. We expect the resolution to be finalized by the end of next month.

Thank you for your consideration.

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